

New York State Department of Motor Vehicles (NYSDMV)  
COMMENTS ON THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA)  
23 CFR Part 1327 – Docket # NHTSA-2004-17326

**Summary**

The New York State Department of Motor Vehicles (NYS DMV) objects to the agency's proposal to define the types of transactions included in "issuance of a license". [See paragraph 2.b., below.] We have no other comments on the proposed rulemaking.

1. **Proposed amendment to section 1327.3 to define "employer or prospective employers of motor vehicle operators"**: No comments.
2. **Proposed notification requirement under 23 CFR 1327.4 and conforming amendments to 23 CFR 1327.3(m) and 1327.5(b)(1)**
  - a. **23 CFR 1327.4 - a participating State may be required to submit a new notification to the agency, with each change to 49 U.S.C. 30304**: No comments.
  - b. **23 CFR 1327.5(b)(1) - clarification that issuance of a license includes, but is not limited to, any original, renewal, temporary, or duplicate license**: NYS DMV objects to the expanded definition of "issuance of a license", because the resulting system changes and workload would be too costly and of little or no value. NYS DMV asserts that the states should have the ability to identify for themselves the issuance and renewal transactions that should require checks of the National Driver Registry (NDR) and the Commercial Driver License Information System (CDLIS).

To comply with the statutory change, NYS DMV intends to perform NDR and CDLIS queries on non-CDL applicants for the same issuance and renewal transactions that currently require checks for only CDL applicants. NYS DMV does not think that the following transactions should require NDR and CDLIS checks:

- an original issuance to minimum age drivers (16 years old)
- issuance of a duplicate to replace a document that was lost, stolen or destroyed
- issuance of a new document to correct non-personal information (changes to identity information would require checks)
- issuance of a new document to add or remove restrictions and endorsements within the same license classification
- issuance of a temporary document
- renewal of a learner's permit

First-time applicants who show by valid proof of date of birth that they are 16 years old are not likely to be problem drivers or CDL holders. Thus, NDL and CDLIS queries for the 46,000 yearly minimum age applicants in NYS would be unproductive. Applicants for the remaining five transactions would already have undergone an NDR check (and, eventually, checks of both the NDR and CDLIS), and will get NDR and CDLIS checks at their next renewal. Because

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these five transactions could occur one or more times at any interval after receiving or renewing a license/permit, we see little or no value to be gained by running checks for these 1.19 million transactions per year, especially given the additional costs.

With over 10 million licensed drivers in NYS, imposing the new requirement on non-CDL applicants, *even excluding the transactions listed above*, represents a significant increase in workload, adding over 2.5 million NDR checks and over three million CDLIS checks per year. We would experience a proportionate increase in NDR and CLDIS hits, which would result in:

- a proportionate increase in staff workload required to resolve possible matches (7.1 staff years of additional work per year, costing \$316,000 annually)
- a proportionate increase in the rejection rate of transactions processed through our web site, License Remittance processor, and Batch Image processor. Each rejected transaction generates additional staff follow-up work.
- a significant increase in the frequency of purging NYS DMV's UNI Files (message control records, individual messages, and error messages) due to the increased number of records and larger file size for license transaction and AAMVAnet batch jobs, which will reach the preset maximum size more quickly.
- an increase in AAMVAnet use charges
- significant programming changes up front to implement the requirement.

Extending the requirement to include minimum-age, duplicate, and the other transactions cited above, would add over 1.2 million NDR and 1.2 million CDLIS queries per year. This increase, and all the implied follow-up tasks, would require 3.5 additional staff years of work (\$156,000 annually) as well as over \$40,000 in staff time up front for additional programming.

- c. **23 CFR 1327.3(m) – a participating State's status is contingent on the State's compliance with 49 U.S.C. 303034:** No comments.
3. **Proposed amendment to 23 CFR Part 1327.5(a) clarifying that pointer records sent to the NDR must be based on the violation codes listed in the Appendix:** No comments.
4. **Proposed amendment to Appendix A to 23 CFR Part 1327 and conforming amendment to CFR 1327.3(g) proposing to update the NDR codes list to be consistent with the current ACD reporting codes:** No comments.

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**5. Contact Information:** Thank you for this opportunity to express our concerns, questions, and recommendations. Any questions you might have relative to these comments may be directed to Alfred M. Memole, Division of Program Analysis. Al can be reached by email at [amemo@dmv.state.ny.us](mailto:amemo@dmv.state.ny.us) or by telephone at (518) 408-2032.